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Held at Headquarters, New York, on Thursday, 20 November 2008, at 10 a.m.

Chairman:	Mr. Majoor	(Netherlands)
later:	Ms. Seanedzu (Vice-Chairman)	(Ghana)
later:	Mr. Majoor (Chairman)	(Netherlands)

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The meeting was called to order at 10.20 a.m.

Agenda item 64: Promotion and protection of human rights (*continued*)

(b) Human rights questions, including alternative approaches for improving the effective enjoyment of human rights and fundamental freedoms (*continued*) (A/C.3/63/L.19/Rev.1)

Draft resolution A/C.3/63/L.19/Rev.1: Moratorium on the use of the death penalty

1. **The Chairman** drew attention to the amendments to the draft resolution contained in documents A/C.3/63/L.62 to L.68, which had been voted upon, and said that the draft resolution did not have any programme budget implications.

2. **Mr. Degia** (Barbados) requested a separate vote on the first preambular paragraph of the draft resolution.

3. **Mr. Rastam** (Malaysia) said that delegations were far from reaching a consensus on the draft resolution. He proposed oral amendments to paragraphs 2 and 3 of the draft resolution to the effect that the report on progress made in the implementation of resolution 62/149 and of the draft resolution under discussion should be submitted at the sixty-sixth session of the General Assembly, rather than the sixty-fifth, and that consideration of the matter should continue at the sixty-sixth session, not at the sixty-fifth.

4. **Mr. Llanos** (Chile), speaking on behalf of the sponsors of the draft resolution, said that he opposed the amendments proposed by the representative of Malaysia, which were contrary to the purpose of the draft resolution.

5. **Ms. Chan** Yu Ping (Singapore) expressed her support for the proposal of the representative of Malaysia; she believed that it would be more appropriate to discuss the moratorium on the use of the death penalty every three years, since the issue divided Member States unnecessarily and wasted the Organization's time and money.

6. **Ms. Zhang** Dan (China) said that she fully shared the view of the representative of Singapore. Such debates did not help to eliminate differences of opinion; consideration of the issue should be deferred to the sixty-sixth session of the General Assembly.

7. **Mr. Ney** (Germany), speaking as a sponsor of the draft resolution, said that an increasing number of States were abolishing the death penalty and it was therefore appropriate to reconsider the issue every two years. It was regrettable that the Committee had wasted time considering amendments whose sole aim was to delay the adoption of the draft resolution. He encouraged Member States to reject the amendments to paragraphs 2 and 3.

8. **Ms. Banks** (New Zealand) agreed with the view expressed by the representative of Germany and said that the periodicity selected to consider the issue was appropriate.

9. **Mr. Attiya** (Egypt) welcomed the oral amendments put forward by the representative of Malaysia and encouraged the representatives of Member States to support them.

10. **Ms. Hindlsová** (Czech Republic), speaking as a sponsor of the draft resolution, said that consideration of the issue every two years would make it possible to better assess developments on the ground. The proposed amendments were therefore contrary to the spirit of the text and her delegation would vote against them.

11. *A recorded vote was taken on the oral amendment to paragraph 2 submitted by the representative of Malaysia.*

In favour:

Afghanistan, Antigua and Barbuda, Bahamas, Bangladesh, Barbados, Belarus, Belize, Botswana, Brunei Darussalam, China, Democratic People's Republic of Korea, Dominica, Egypt, Eritrea, Ethiopia, Fiji, Grenada, Guinea, Guyana, India, Indonesia, Iran (Islamic Republic of), Iraq, Jamaica, Japan, Jordan, Kuwait, Lao People's Democratic Republic, Libyan Arab Jamahiriya, Malaysia, Maldives, Mongolia, Myanmar, Nigeria, Pakistan, Papua New Guinea, Qatar, Saint Kitts and Nevis, Saint Lucia, Saint Vincent and the Grenadines, Saudi Arabia, Singapore, Solomon Islands, Sudan, Swaziland, Syrian Arab Republic, Thailand, Togo, Trinidad and Tobago, Uganda, United Arab Emirates, United States of America, Viet Nam, Yemen, Zimbabwe.

Against:

Albania, Algeria, Andorra, Angola, Argentina, Armenia, Australia, Austria, Belgium, Bolivia, Bosnia and Herzegovina, Brazil, Bulgaria, Burundi, Canada, Cape Verde, Chile, Colombia, Congo, Costa Rica, Côte d'Ivoire, Croatia, Cyprus, Czech Republic, Denmark, Dominican Republic, Ecuador, El Salvador, Estonia, Finland, France, Gabon, Georgia, Germany, Greece, Haiti, Honduras, Hungary, Iceland, Ireland, Israel, Italy, Kiribati, Latvia, Liechtenstein, Lithuania, Luxembourg, Mali, Malta, Marshall Islands, Mauritius, Mexico, Micronesia (Federated States of), Monaco, Montenegro, Mozambique, Namibia, Nauru, Nepal, Netherlands, New Zealand, Norway, Palau, Panama, Paraguay, Philippines, Poland, Portugal, Republic of Moldova, Romania, Rwanda, Samoa, San Marino, Sao Tome and Principe, Serbia, Slovakia, Slovenia, South Africa, Spain, Sweden, Switzerland, the former Yugoslav Republic of Macedonia, Timor-Leste, Turkey, Ukraine, United Kingdom of Great Britain and Northern Ireland, Uruguay, Venezuela (Bolivarian Republic of).

Abstaining:

Benin, Bhutan, Cambodia, Djibouti, Equatorial Guinea, Ghana, Guatemala, Kenya, Lebanon, Lesotho, Liberia, Malawi, Mauritania, Morocco, Niger, Peru, Republic of Korea, Russian Federation, Senegal, Sierra Leone, Sri Lanka, Suriname, United Republic of Tanzania, Zambia.

12. *The oral amendment to paragraph 2 of draft resolution A/C.3/63/L.19/Rev.1 was rejected by 88 votes to 55, with 24 abstentions.*

13. *A recorded vote was taken on the oral amendment to paragraph 3 submitted by the representative of Malaysia.*

In favour:

Afghanistan, Antigua and Barbuda, Bahamas, Bangladesh, Barbados, Belarus, Belize, Botswana, Brunei Darussalam, China, Democratic People's Republic of Korea, Dominica, Egypt, Eritrea, Ethiopia, Fiji, Grenada, Guinea, Guyana, India, Indonesia, Iran (Islamic Republic of), Iraq, Jamaica, Japan, Jordan, Kuwait, Libyan Arab Jamahiriya, Malaysia, Maldives, Mongolia, Myanmar, Nigeria, Pakistan, Papua New Guinea, Qatar, Saint Kitts and Nevis, Saint Lucia, Saint Vincent and the Grenadines, Saudi Arabia, Singapore, Solomon Islands, Sudan, Swaziland, Syrian Arab Republic, Thailand, Trinidad and Tobago, Uganda, United Arab Emirates, United States of America, Viet Nam, Yemen, Zimbabwe.

Against:

Albania, Algeria, Andorra, Angola, Argentina, Armenia, Australia, Austria, Belgium, Bolivia, Bosnia and Herzegovina, Brazil, Bulgaria, Burundi, Canada, Cape Verde, Chad, Chile, Colombia, Congo, Costa Rica, Côte d'Ivoire, Croatia, Cyprus, Czech Republic, Denmark, Dominican Republic, Ecuador, El Salvador, Estonia, Finland, France, Gabon, Georgia, Germany, Greece, Haiti, Honduras, Hungary, Iceland, Ireland, Israel, Italy, Kiribati, Lao People's Democratic Republic, Latvia, Liechtenstein, Lithuania, Luxembourg, Mali, Malta, Marshall Islands, Mauritius, Mexico, Micronesia (Federated States of), Monaco, Montenegro, Mozambique, Namibia, Nauru, Nepal, Netherlands, New Zealand, Norway, Palau, Panama, Paraguay, Philippines, Poland, Portugal, Republic of Moldova, Romania, Rwanda, Samoa, San Marino, Sao Tome and Principe, Serbia, Slovakia, Slovenia, South Africa, Spain, Sweden, Switzerland, the former Yugoslav Republic of Macedonia, Timor-Leste, Turkey, Ukraine, United Kingdom of Great Britain and Northern Ireland, Uruguay, Venezuela (Bolivarian Republic of).

Abstaining:

Benin, Bhutan, Cambodia, Djibouti, Equatorial Guinea, Ghana, Guatemala, Kenya, Lebanon, Lesotho, Liberia, Malawi, Mauritania, Morocco, Niger, Peru, Republic of Korea, Russian Federation, Senegal, Sri Lanka, Suriname, United Republic of Tanzania, Zambia.

14. *The oral amendment to paragraph 3 of draft resolution A/C.3/63/L.19/Rev.1 was rejected by 90 votes to 53, with 23 abstentions.*

15. **Mr. Ochoa** (Mexico), speaking on a point of order, asked which rule of the rules of procedure allowed a separate vote to be taken.

16. **The Chairman** said that rule 129 of the rules of procedure allowed a paragraph to be put to a separate vote.

17. **Mr. Ochoa** (Mexico) said that the Committee had already wasted a lot of time; he encouraged delegations to oppose the proposal of Barbados to vote on the first preambular paragraph of the draft resolution separately.

18. **Ms. Akbar** (Antigua and Barbuda) said that she supported the motion for division proposed by the representative of Barbados.

19. **Mr. Babadoudou** (Benin) requested clarification regarding the conduct of business.

20. **Mr. Degia** (Barbados) noted that he had simply requested a separate vote.

21. **The Chairman**, responding to the representative of Benin, said that under rule 129, permission to speak on the motion for division proposed by the representative of Barbados should be given to two speakers in favour and two speakers against.

22. **Ms. Akbar** (Antigua and Barbuda) explained that her delegation was in favour of a separate vote on the first preambular paragraph since delegations from Member States opposed to the adoption of the draft resolution under consideration, which dealt with an extremely controversial issue, had no alternative but to resort to such a procedural approach in order to demonstrate their opposition.

23. **Ms. Chan** Yu Ping (Singapore) said that she would also vote in favour of a separate vote. She added that the Committee should not be afraid of that procedure and that all points of view should be heard.

24. **Ms. Bruell-Melchior** (Monaco) said that she would vote against a separate vote. Delegations had already had ample opportunity to express their views on the draft resolution, which had been endorsed by 89 Member States. It was time to vote on the text as a whole.

25. **Mr. Margarian** (Armenia) said that his delegation aligned itself with the statement made by the representative of Monaco and noted that Member States had already taken action on seven written amendments and several oral amendments.

26. **The Chairman**, responding to a point of order raised by the representative of Malaysia, again recalled the provisions of rule 129 and urged delegations not to seek to slow down the proceedings.

27. *A recorded vote was taken on the proposal of the representative of Barbados for a separate vote on the first preambular paragraph of draft resolution A/C.3/63/L.19/Rev.1.*

In favour:

Afghanistan, Antigua and Barbuda, Bahamas, Bangladesh, Barbados, Belarus, Belize, Botswana, Brunei Darussalam, China, Comoros, Cuba, Democratic People's Republic of Korea, Dominica, Egypt, Eritrea, Ethiopia, Grenada, Guinea, Guyana, India, Indonesia, Iran (Islamic Republic of), Iraq, Jamaica, Japan, Jordan, Kuwait, Libyan Arab Jamahiriya, Malaysia, Maldives, Mongolia, Myanmar, Nigeria, Pakistan, Qatar, Saint Kitts and Nevis, Saint Lucia, Saint Vincent and the Grenadines, Saudi Arabia, Singapore, Solomon Islands, Sudan, Swaziland, Syrian Arab Republic, Thailand, Trinidad and Tobago, Uganda, United Arab Emirates, United States of America, Viet Nam, Yemen, Zimbabwe.

Against:

Albania, Andorra, Angola, Argentina, Armenia, Australia, Austria, Belgium, Bolivia, Bosnia and Herzegovina, Brazil, Bulgaria, Burundi, Canada, Cape Verde, Chad, Chile, Colombia, Congo, Costa Rica, Côte d'Ivoire, Croatia, Cyprus, Czech Republic, Denmark, Dominican Republic, Ecuador, El Salvador, Estonia, Finland, France, Gabon, Georgia, Germany, Greece, Haiti, Honduras, Hungary, Iceland, Ireland, Israel, Italy, Kiribati, Latvia, Liechtenstein, Lithuania, Luxembourg, Mali, Malta, Marshall Islands, Mauritius, Mexico, Micronesia (Federated States of), Monaco, Montenegro, Mozambique, Namibia, Nauru, Nepal, Netherlands, New Zealand, Norway, Palau, Panama, Paraguay, Peru, Philippines, Poland, Portugal, Republic of Moldova, Romania, Rwanda, Samoa, San Marino, Sao Tome and Principe, Serbia, Slovakia, Slovenia, South Africa, Spain, Sweden, Switzerland, the former Yugoslav Republic of Macedonia, Timor-Leste, Turkey, Ukraine, United Kingdom of Great Britain and Northern Ireland, Venezuela (Bolivarian Republic of).

Abstaining:

Benin, Bhutan, Cambodia, Djibouti, Equatorial Guinea, Fiji, Ghana, Guatemala, Kenya, Lebanon, Lesotho, Liberia, Malawi, Mauritania, Morocco, Niger, Republic of Korea, Russian Federation,

Senegal, Sierra Leone, Sri Lanka, Suriname, United Republic of Tanzania, Zambia.

28. *The motion for division concerning the first preambular paragraph of draft resolution A/C.3/63/L.19/Rev.1 was rejected by 88 votes to 53, with 24 abstentions.*

29. **Ms. Cross** (United Kingdom) sought further confirmation as to whether a separate vote had been taken on the first preambular paragraph under rule 129 of the rules of procedure.

30. **Ms. Pi** (Uruguay) indicated that, had she had been present during the vote she would have voted against the motion for division submitted by the representative of Barbados.

31. **Ms. Chan** Yu Ping (Singapore) said that her delegation also wished to have a separate vote on paragraph 1 of the draft resolution, in accordance with rule 129 of the rules of procedure.

32. **Mr. Degia** (Barbados) emphasized that a distinction should be made between his request for a separate vote and the motion for division proposed by the representative of Singapore, which concerned paragraph 1 of the draft resolution.

33. **Mr. Ochoa** (Mexico), speaking on a point of order, said that the time had come for the Committee to take action on the draft resolution as a whole. The motion for division proposed by Singapore had indeed been submitted under rule 129 of the rules of procedure, as had the motion proposed by Barbados, which the Committee had just rejected.

34. **Mr. Llanos** (Chile), expressing support for the statement made by the representative of Mexico, added that the Committee could not go back on its decision not to vote separately on the proposed amendments to the draft resolution.

35. **Ms. Chan** Yu Ping (Singapore) reiterated that her motion for division had nothing to do with the request made by the representative of Barbados. The motion would allow the sponsors of the draft resolution to reconsider the amendment proposed by the delegation of Singapore during the informal consultations. Failure to vote on the motion would constitute a violation of rule 129 of the rules of procedure.

36. **Mr. Renié** (France) asked the Secretary of the Committee to clarify the vote taken in response to the motion for division proposed by the representative of Barbados.

37. **Mr. Khane** (Secretary of the Committee) explained that Mexico had objections to the motion for division proposed by the representative of Barbados concerning the first preambular paragraph of the draft resolution; the Committee had therefore held a vote on that motion, in accordance with rule 129 of the rules of procedure. As the motion for division proposed by the representative of Singapore concerned another part of the draft resolution, namely paragraph 1, the provisions of rule 129 should be implemented on an individual basis. The Committee must decide on the receivability of that motion if a delegation objected to it. However, it did not appear that either Mexico or Chile had raised such explicit objections.

38. **Mr. Llanos** (Chile) said that it was his understanding that the Committee had voted to reject separate votes on any proposed amendments to the draft resolution. He objected to the motion for division proposed by Singapore.

39. **Mr. González** (Costa Rica) said that rule 129 of the rules of procedure had been incorrectly interpreted; in order to vote on the motion for division proposed by Singapore, the Committee must first accept the principle of a separate vote. He therefore asked whether the next vote to be taken would be based on that principle, which the Committee had however just rejected, or on a separate vote in respect of paragraph 1 of the draft resolution.

40. **Mr. Saeed** (Sudan), speaking on a point of order, repeated the explanations provided by the Secretary of the Committee. He urged delegations to stop making general statements so that a vote could be taken on the motion for division proposed by Singapore, in accordance with rule 129 of the rules of procedure.

41. **Ms. Banks** (New Zealand), speaking on a point of order said that she would welcome further clarification. She was surprised that no mention had been made of rule 81 of the rules of procedure, according to which the Committee could not immediately take action on a proposal for a separate vote if that proposal had already been rejected.

42. **Mr. Khane** (Secretary of the Committee) said that the motion for division proposed by the representative of Singapore had been put to a vote because the representative of Chile had objected to it.

Rule 81 of the rules of procedure was not applicable because the requests made by Barbados and Singapore concerned two distinct parts of the draft resolution, namely the first preambular paragraph and paragraph 1.

43. **Mr. Saeed** (Sudan), speaking in favour of the motion for division proposed by Singapore, said that a number of delegations, including his own, had proposed constructive amendments. However, the sponsors of the draft resolution had systematically rejected those amendments. He therefore urged the countries concerned to reconsider their positions with respect to paragraph 1 of the draft resolution.

44. **Mr. Cabral** (Guinea-Bissau), speaking on a point of order, objected to the length of the statement made by the representative of Sudan, who should have limited himself to stating his position on the motion for division under consideration.

45. **Mr. Saeed** (Sudan) reiterated his support for the motion for division proposed by Singapore.

46. **Mr. Degia** (Barbados), speaking in favour of the motion for division proposed by the representative of Singapore, said that nothing should prevent delegations from justifying their positions. Confirming the information provided by the representative of Sudan, he stressed that the motion proposed by Singapore was perfectly legitimate: it would allow the Committee to take note of the opposition of a number of countries to the wording of paragraph 1, which was something that the sponsors of the draft resolution had failed to do.

47. **Ms. Bruell-Melchior** (Monaco), speaking against the motion for division proposed by the representative of Singapore, suggested that the Committee would save time by first deciding whether or not it would allow a separate vote on each paragraph.

48. **Mr. Vigny** (Switzerland), speaking against the motion for division proposed by the representative of Singapore and also as a sponsor of the draft resolution, invited delegations to vote against the motion.

49. *A recorded vote was taken on the motion for division proposed by the representative of Singapore concerning paragraph 1 of the draft resolution.*

In favour:

Afghanistan, Antigua and Barbuda, Bahamas, Bangladesh, Barbados, Belarus, Belize, Botswana, Brunei Darussalam, Chad, China, Comoros, Cuba, Democratic People's Republic of Korea, Dominica, Egypt, Eritrea, Ethiopia, Grenada, Guinea, Guyana, India, Indonesia, Iran (Islamic Republic of), Iraq, Jamaica, Japan, Jordan, Kuwait, Libyan Arab Jamahiriya, Malaysia, Maldives, Mongolia, Myanmar, Nigeria, Pakistan, Papua New Guinea, Qatar, Saint Kitts and Nevis, Saint Lucia, Saint Vincent and the Grenadines, Saudi Arabia, Singapore, Solomon Islands, Sudan, Swaziland, Syrian Arab Republic, Thailand, Trinidad and Tobago, Uganda, United Arab Emirates, United States of America, Viet Nam, Yemen, Zimbabwe.

Against:

Albania, Andorra, Angola, Argentina, Armenia, Australia, Austria, Belgium, Bolivia, Bosnia and Herzegovina, Brazil, Bulgaria, Burundi, Canada, Cape Verde, Chile, Colombia, Congo, Costa Rica, Côte d'Ivoire, Croatia, Cyprus, Czech Republic, Denmark, Dominican Republic, Ecuador, El Salvador, Estonia, Finland, France, Gabon, Georgia, Germany, Greece, Haiti, Honduras, Hungary, Iceland, Ireland, Israel, Italy, Kiribati, Latvia, Liechtenstein, Lithuania, Luxembourg, Mali, Malta, Marshall Islands, Mauritius, Mexico, Micronesia (Federated States of), Monaco, Montenegro, Mozambique, Namibia, Nauru, Nepal, Netherlands, New Zealand, Norway, Palau, Panama, Paraguay, Peru, Philippines, Poland, Portugal, Republic of Moldova, Romania, Rwanda, Samoa, San Marino, Sao Tome and Principe, Serbia, Slovenia, South Africa, Spain, Sweden, Switzerland, the former Yugoslav Republic of Macedonia, Timor-Leste, Turkey, Tuvalu, Ukraine, United Kingdom of Great Britain and Northern Ireland, Uruguay, Venezuela (Bolivarian Republic of).

Abstaining:

Benin, Bhutan, Djibouti, Equatorial Guinea, Fiji, Ghana, Guatemala, Guinea-Bissau, Kenya, Lebanon, Lesotho, Liberia, Malawi, Mauritania, Morocco, Niger, Republic of Korea, Russian Federation, Senegal, Sierra Leone, Sri Lanka, Suriname, United Republic of Tanzania, Zambia.

50. *The motion for division concerning paragraph 1 of the draft resolution was rejected by 88 votes to 55, with 24 abstentions.*

51. **Mr. Suárez** (Colombia) speaking as a sponsor of the draft resolution as a whole, said that his delegation

would again vote in favour of the draft resolution because its text was consistent with the national and international legal instruments currently in force in Colombia and with the policies of his Government. His country had abolished the death penalty, which had limited success as a means of crime prevention and also seriously undermined the right to life, the right to freedom from cruel, inhuman or degrading treatment and the right to due process. He hoped that the adoption of the draft resolution would advance the multilateral dialogue aimed at a moratorium on the use of the death penalty, given that the protection of human rights and basic freedoms, through international cooperation, was a priority for the United Nations. The draft resolution intentionally focused on the implementation of General Assembly resolution 62/149, and not on substantive issues, so as to reduce any controversy. Colombia had voted against the motions for division in order to preserve the spirit of the draft resolution.

52. **Mr. Bahreyni** (Islamic Republic of Iran) said that States were sovereign in the area of justice and that the death penalty was a matter of criminal justice, not a human rights issue. International human rights law authorized capital punishment for the most serious crimes. Calls for its abolition in all countries constituted interference that ran counter to the principles enshrined in the Charter of the United Nations and denied the social, cultural and religious diversity of national legal systems. His delegation would therefore vote against the draft resolution.

53. **Mr. Rastam** (Malaysia) said that he was disappointed that the credibility of the Committee's work had once again been compromised by its decision to consider the issue of the death penalty. In the same way that Malaysia respected countries that had voluntarily abolished the death penalty or had decided to apply a moratorium on its use, such countries should respect the States that had retained it, which included Malaysia. Since there was no international consensus on the issue of the death penalty, no Member State had the right to impose on another country the principle of, or the modalities for its abolition. However, during the informal consultations on the draft resolution, its sponsors had abandoned the positive attitude usually adopted in that framework and had flatly rejected the amendments constructively proposed by a number of delegations seeking to reconcile the different points of view. While his delegation, among others, had hoped to engage in a dialogue, the sponsors of the draft resolution had taken a confrontational approach, which had led to an impasse. Reiterating the arguments put forward by the representative of the Islamic Republic of Iran, while also clarifying that Malaysia only applied the death penalty for the most serious crimes and that various avenues of recourse were available to persons sentenced to death, he indicated that his delegation would vote against the draft resolution.

54. **Ms. Booker** (Bahamas) recalled that the idea of a world government was not new; its proponents believed that the existence of a global supranational authority would help to solve all of the world's ills, while its detractors viewed such an idea as merely a utopian dream. Contrary to what had been implied by the sponsors of the draft resolution, the United Nations was not a world government with centralized executive, legislative and judicial powers but rather an international organization consisting of Member States, each with its own justice system. Furthermore, the universal abolition of the death penalty, in reality, was far from a panacea. Citing paragraph 31 of the report of the Secretary-General with regard to the implementation of General Assembly resolution 62/149 (A/63/293), she warned against the risk of violating the sovereignty of States and, endorsing the Malaysian delegation's description of the informal consultations, highlighted the bad faith shown by some sponsors of the draft resolution and rejected accusations that the aim of the earlier motions for division had been to delay the adoption of the draft resolution.

55. Furthermore, she could not accept the report of the Secretary-General, finding inconsistencies in the way that it classified whether countries were retentionist, de facto abolitionist or de jure abolitionist. Referring to paragraphs 7 and 12 of the report, she also criticized the lack of reliability and transparency of the figures and sources used. While she agreed that the death penalty was not prohibited in international law, she considered that capital punishment was a matter of criminal justice, not a human rights issue. Her delegation would vote against the draft resolution.

56. **Mr. Attiya** (Egypt) called attention to the fact that the draft resolution was selective in terms of both content and scope, which its sponsors appeared to have ignored. It addressed only one aspect of the right to life and remained silent on the question of abortion, for example. As his delegation had already suggested, the question of the death penalty could be considered by

the Human Rights Council as part of a comprehensive review of the right to life, provided that resources were made available to strengthen the role of that body. Moreover, by referring to a global trend towards the abolition of the death penalty, the sponsors of the draft resolution had failed to recognize the diversity of legal, social, economic and cultural conditions. None of them had the right to impose their views on a third party without taking account of that party's concerns. Nor should they seek to do so by manipulating international law. There was thus a need to reconcile the positions of States that had voluntarily abolished the death penalty, or had decided to apply a moratorium on executions, and those countries that continued to use it, within the framework of multilateral negotiations on the right to life in general. His delegation would vote against the draft resolution and it urged others to do the same.

57. **Ms. Kožar** (Croatia) said that she was gratified that the Committee, a majority of whose members were clearly in favour of the draft resolution, was in a position to take action on a version that had not been subject to substantive changes. As a sponsor, her delegation would vote in favour of the draft resolution and it called on other representatives to do the same.

58. **Mr. Saeed** (Sudan) said that the way in which the Committee had stumbled over the motions for division proposed by the representatives of Barbados and Singapore demonstrated the sensitive nature of the death penalty and reinforced the idea that those who wished to consider that question within the framework of human rights, without respecting the political, social and cultural sovereignty of Member States, were committing a grave mistake. A consensus was not possible since each State was responsible for deciding whether or not to abolish the death penalty and, while Sudan respected countries which, after national consultations, had voluntarily abolished the death penalty or had adopted a moratorium on its application, it was entitled to expect the same respect in return. Since the informal consultations on the draft resolution had been politicized by the sponsors of the draft resolution, who had refused to modify its wording to take into account the legal and judicial systems that existed in Sudan and in associated countries, his delegation would vote against the draft resolution.

59. **Mr.** Soe Lynnn **Han** (Myanmar), speaking in explanation of vote before the voting, said that any attempt by a country or group of countries to impose a legal system on others was contrary to Article 2 of the Charter of the United Nations. His delegation would therefore vote against the draft resolution.

60. **Mr. Talbot** (Guyana) expressed regret that the proposed amendment had not been supported by all delegations. There was no international consensus on the death penalty and the question of its maintenance came within the domestic jurisdiction of each State. Even though the death penalty had not been applied in Guyana for many years, his country could not accept a draft resolution that clearly represented an attempt at interference and ran counter to the Guyanese people's wish to maintain the death penalty. His delegation would therefore vote against it.

61. **Mr. Degia** (Barbados) said that, since gaining independence, Barbados had constantly worked to improve the lot of its people, ensuring their right to free education and health care and to gender equality, and had acceded to the main human rights conventions. It possessed an independent judicial system which offered every guarantee of due process. Even though there had been no capital punishment in Barbados for almost a quarter of a century, the death penalty was provided for in the country's legislation. The British Privy Council itself, before its replacement by the Caribbean Court of Justice as the supreme court of appeal, had recognized that the inclusion of the death penalty in the legislation of Barbados was lawful and in accordance with its Constitution. The death penalty was not prohibited by international law, the International Covenant on Civil and Political Rights or the Universal Declaration of Human Rights, and it came within the domestic jurisdiction of States. His delegation would therefore vote against the draft resolution.

62. *Ms. Seanedzu (Ghana), Vice-Chairman, took the Chair.*

63. **Mr. Punkrasin** (Thailand) said that, in accordance with Article 2, paragraph 7, of the Charter of the United Nations, the decision on whether or not to declare a moratorium on the use of the death penalty was a sovereign decision of each State. His delegation requested that Thailand's right to maintain the death penalty should be respected; in the eyes of its people, it was a deterrent against the most serious crimes. Moreover, under the law of Thailand, persons sentenced to death had the right to appeal to the Supreme Court and to request a pardon or a commutation of sentence. The death penalty was in any

case applied only for the most serious crimes; the most recent execution dated back to 2003. In addition, following an amendment to the Thai Criminal Code, no person under the age of 18 could be sentenced to death. His delegation would therefore vote against the draft resolution.

64. *Mr. Majoor (Netherlands) resumed the Chair.*

65. **Mr. Al-Shami** (Yemen) recalled that there was no international consensus regarding the death penalty: every State had the right to choose its economic, social, cultural and legal system without outside interference and capital punishment was not prohibited by international law. It was inadmissible that countries that had abolished the death penalty should seek to impose their views. The draft resolution was one-sided and had been only superficially amended. His delegation would therefore vote against it.

66. **Mr. Aisi** (Papua New Guinea) said that treason and very serious crimes carried the death penalty in his country. In 33 years of independence, the death sentence had been imposed in only a handful of cases and, each time, it had been commuted to life imprisonment by the Supreme Court. Papua New Guinea was not, however, in favour of a moratorium on the death penalty and had no intention of abolishing it. Implementation of the draft resolution would encroach on the jurisdiction of the Supreme Court and jeopardize the operation of an independent judicial system. Moreover, according to the Constitution, a pardon could be granted in certain cases by a board composed of representatives of the judiciary as a whole, and Parliament had the authority to amend the law. His delegation would therefore vote against the draft resolution.

67. **Mr. Malhotra** (India) said that each State had the right to determine its own legal system and that capital punishment was not prohibited by the International Covenant on Civil and Political Rights. In India, it was imposed only in exceptional cases, when the crime committed was so heinous as to shock the conscience of society. The right to due process was guaranteed by law. Death sentences handed down could not be applied to pregnant women; juvenile offenders could not be sentenced to death under any circumstance. Any death sentence must be confirmed by a superior court and the accused had a right of appeal to the High Court, or to the Supreme Court, and was entitled to file a mercy petition before the governor of the State concerned or the President. His delegation would vote against the draft resolution, which went against Indian legislation.

68. **Mr. Akindele** (Nigeria) said that Nigeria's legislation provided for the death penalty because of its very belief in the sanctity of human life. The current administration practised the rule of law, in a spirit of openness and transparency, and resorted to capital punishment only in exceptional cases. His delegation considered that each State had the sovereign right to choose its political and legal system without outside interference. Convinced that the death penalty was an effective deterrent for both would-be and hardened criminals, it would vote against the draft resolution.

69. **Mr. Gonsalves** (Saint Vincent and the Grenadines) said that the Constitution of his country, which provided for capital punishment but also offered all the guarantees of due process, had been bequeathed by the former colonial power, Great Britain. Maintained in accordance with the wishes of the majority of the population, the death penalty was only applied, however, for the most serious crimes. The draft resolution ran counter to the wishes of the population of Saint Vincent and the Grenadines, was contrary to the spirit of the Charter of the United Nations and breached the sovereign right of States to choose their own legal system. His delegation had particular doubts as to the usefulness and validity of the draft resolution, given that the world was moving under its own momentum towards the abolition of the death penalty. Furthermore, despite the abhorrent nature of many practices prescribed and tolerated in some countries, Saint Vincent and the Grenadines would not presume to interfere in those countries' domestic affairs or to question their motives. His delegation would therefore vote against the draft resolution.

70. **Ms. Halabi** (Syrian Arab Republic) said that the sovereign right of States to manage their domestic affairs freely, as enshrined in the Charter of the United Nations, was based on mutual respect and the principle of non-interference. Her delegation would therefore vote against the draft resolution, which infringed upon that right.

71. A recorded vote was taken on draft resolution A/C.3/63/L.19/Rev.1 as a whole.

In favour:

Albania, Algeria, Andorra, Angola, Argentina, Armenia, Australia, Austria, Azerbaijan, Belgium, Benin, Bolivia, Bosnia and Herzegovina, Brazil, Bulgaria, Burkina Faso, Burundi, Cambodia, Canada, Cape Verde, Chile, Colombia, Congo, Costa Rica, Côte d'Ivoire, Croatia, Cyprus, Czech Republic, Denmark, Dominican Republic, Ecuador, El Salvador, Estonia, Finland, France, Gabon, Georgia, Germany, Greece, Guatemala, Guinea-Bissau, Haiti, Honduras, Hungary, Iceland, Ireland, Israel, Italy, Kazakhstan, Kiribati, Kyrgyzstan, Latvia, Liechtenstein, Lithuania, Luxembourg, Madagascar, Mali, Malta, Marshall Islands, Mauritius, Mexico, Micronesia (Federated States of), Monaco, Montenegro, Mozambique, Namibia, Nauru, Nepal, Netherlands, New Zealand, Nicaragua, Norway, Palau, Panama, Paraguay, Peru, Philippines, Poland, Portugal, Republic of Moldova, Romania, Russian Federation, Rwanda, Samoa, San Marino, Sao Tome and Principe, Serbia, Slovakia, Slovenia, South Africa, Spain, Sri Lanka, Sweden, Switzerland, Tajikistan, the former Yugoslav Republic of Macedonia, Timor-Leste, Turkey, Turkmenistan, Tuvalu, Ukraine, United Kingdom of Great Britain and Northern Ireland, Uruguay, Uzbekistan, Venezuela (Bolivarian Republic of).

Against:

Afghanistan, Antigua and Barbuda, Bahamas, Bangladesh, Barbados, Belize, Botswana, Brunei Darussalam, Chad, China, Comoros, Democratic People's Republic of Korea, Dominica, Egypt, Ethiopia, Grenada, Guyana, India, Indonesia, Iran (Islamic Republic of), Iraq, Jamaica, Japan, Kuwait, Libyan Arab Jamahiriya, Malaysia, Maldives, Mongolia, Myanmar, Nigeria, Pakistan, Papua New Guinea, Qatar, Saint Kitts and Nevis, Saint Lucia, Saint Vincent and the Grenadines, Saudi Arabia, Singapore, Solomon Islands, Sudan, Swaziland, Syrian Arab Republic, Thailand, Trinidad and Tobago, Uganda, United States of America, Yemen, Zimbabwe.

Abstaining:

Bahrain, Belarus, Bhutan, Cameroon, Central African Republic, Cuba, Equatorial Guinea, Eritrea, Fiji, Ghana, Guinea, Jordan, Kenya, Lao People's Democratic Republic, Lebanon, Lesotho, Liberia, Malawi, Mauritania, Morocco, Niger, Oman, Republic of Korea, Senegal, Sierra Leone, Suriname, Togo, United Arab Emirates, United Republic of Tanzania, Viet Nam, Zambia.

72. *Draft resolution A/C.3/63/L.19/Rev.1 was adopted by 105 votes to 48, with 31 abstentions.*

73. **Ms. Phipps** (United States of America) said she recognized that the countries supporting the draft resolution had a principled position on the death penalty. However, her delegation urged them to lay greater emphasis, in any future draft resolution dealing with the death penalty, on real violations of human rights. The death penalty was not prohibited by international law and its application was authorized by the International Covenant on Civil and Political Rights. The United States therefore called on all States that maintained the death penalty to respect their international human rights obligations by ensuring that the death penalty was not applied in an extrajudicial, summary or arbitrary manner.

74. **Mr. Bouchaara** (Morocco) said that his delegation had abstained from voting because, notwithstanding the very serious crimes and acts of terrorism perpetrated against innocents and minors, there had been a de facto moratorium on the death penalty in Morocco since 1994 as part of the reforms sought by the King for the protection of human rights and the strengthening of fundamental freedoms. His Government had made institutional and judicial adjustments to refine the procedure for applying capital punishment, while remaining attentive to the Moroccan population in all its diversity in order to form a better idea of the various religious, legal, sociological and humanistic dimensions of the question.

75. **Ms. Chan** Yu Ping (Singapore) said that she regretted the adoption of a draft resolution that had been opposed by many countries and served merely to highlight the lack of international consensus on the question. Singapore rejected the idea that a State or group of States could interfere in a country's domestic affairs in order to impose its point of view. Sixty years earlier, when the Universal Declaration of Human Rights had been proclaimed, the question of the death penalty had not been a human rights issue. The only thing that had changed since then was the insistence of some countries on imposing their values, in violation of the principles of sovereignty, diversity and tolerance. Because of the hypocrisy and partisan spirit

that had marred the discussions, the Committee had over the years turned into a forum for recriminations, double standards, political games and sermonizing, rather than a place for dialogue and the pursuit of common goals. Those who today preached so loudly in favour of human rights seemed to have forgotten that true respect for human rights meant respecting differences and that no one held a monopoly on the truth.

76. **Ms. Nawad** (Lebanon) said that, according to the Lebanese Penal Code, the death penalty was applied only exceptionally, for the most serious crimes. Recognizing the desire of the sponsors of the draft resolution to strengthen respect for human rights, her delegation had put forward several proposals aimed at reconciling the various points of view on the question of the death penalty. Lebanon was anxious to promote a constructive dialogue that would culminate in the universal abolition of the death penalty. A serious debate on the death penalty was soon to start up in the country. The Ministry of Justice was currently preparing a draft law on the abolition of the death penalty. For all those reasons, her delegation had abstained from voting on the draft resolution.

77. **Mr. Attiya** (Egypt) said that his country had voted against draft resolution A/C.3/63/L.19/Rev.1. It was the responsibility of States maintaining the death penalty to ensure that capital punishment could be imposed for the most serious crimes only pursuant to a final judgement, rendered by a competent court, with the strict application of due process of law. His delegation also believed that international efforts should focus on guaranteeing that States did more to ensure that no one was arbitrarily deprived of life.

78. Egypt was firmly convinced that the draft resolution sought not only to reinterpret the provisions of the International Covenant on Civil and Political Rights, but also to impose new interpretations and narrow viewpoints on States. Moreover, it addressed only one aspect of the right to life.

79. The draft resolution also failed to take into account the fact that a negotiated instrument could be amended only through the process by which it had been adopted and not by means of a General Assembly resolution. Attempts to ignore such a well-established principle would create an unwelcome precedent, which would be detrimental to the international community's efforts to promote universal respect for international human rights law. For Egypt, those differences could be resolved only through a comprehensive and multilateral debate on the question of the right to life.

80. **Mr. Christian** (Ghana) said that his delegation had abstained from the vote. He noted that the 1992 Constitution of Ghana expressly stated that no one could be intentionally deprived of life, except in the case of the sentence of a court in respect of a criminal offence which had resulted in a conviction under domestic law. The death penalty was still provided for under the Penal Code for the most serious crimes and violations and it also served as a deterrent. However, the death penalty had not been applied in Ghana for the past 20 years, since different heads of State had exercised their prerogative to pardon persons sentenced to death by superior courts. The Government of Ghana respected the rule of law, adhered to human rights principles and upheld the tenets of the international human rights instruments to which Ghana was a party.

81. **Ms. Kurosaki** (Japan) said that her delegation had voted against the draft resolution. The question of whether to abolish the death penalty or to establish a moratorium on executions should be decided only after every country had considered the matter carefully, taking into account public opinion and its own criminal justice policy. In Japan, opinion polls had consistently shown that the majority of the public believed that the most dangerous criminals should receive the death sentence. Unfortunately, serious crimes such as mass murder continued to be committed. Furthermore, there was no international consensus on the abolition of the death penalty.

82. **Mr. Islam** (Bangladesh) said that his country's criminal justice system imposed the death penalty only for the most brutal and heinous crimes, and subject to provisions designed to avoid any miscarriages of justice. Extreme caution was exercised throughout every aspect of that transparent process. Redress was available at all stages and presidential clemency could be granted. Bangladesh believed that a moratorium which ultimately sought to abolish the death penalty would require a comprehensive appraisal of the criminal justice system worldwide. In the meantime, Bangladesh had been obliged to vote against the draft resolution.

83. **Ms. Hoang Thi Thanh Nga** (Viet Nam) said that her delegation had abstained because it believed that States had the primary responsibility for guaranteeing

that their citizens enjoyed a peaceful life and because each country had the right to adopt the legal measures most appropriate to its level of development. The death penalty was a legal question and should not be included as an agenda item under the protection of human rights. While respecting the decision of countries that had abolished the death penalty or had established a moratorium on its use, Viet Nam continued to use the death penalty as a last resort to protect the right to life of the overwhelming majority of its population. Under the Penal Code of Viet Nam, capital punishment was not applicable to juveniles, pregnant women or mothers with children under 36 months of age. Viet Nam was pursuing a policy to gradually narrow the scope of application of the death penalty with a view to its abolition.

84. **Mr. Dorji** (Bhutan) said that his country did not use the death penalty and encouraged all countries to abolish it, while recognizing the right of all countries to determine their own criminal justice system. It was on the basis of that principled position that his delegation had voted on the draft resolution and its amendments.

85. **Ms. Zhang** Dan (China) said that her delegation had voted against the draft resolution and reaffirmed that the General Assembly was not the forum best suited to deal with the question of the death penalty. Article 2, paragraph 7, of the Charter of the United Nations clearly established that nothing contained in the Charter authorized the United Nations to intervene in matters which were essentially within the domestic jurisdiction of any State. The consideration and adoption by the General Assembly of draft resolution A/C.3/63/L.19/Rev.1 ran counter to that principle. Moreover, international law did not prohibit the death penalty and article 6 of the International Covenant on Civil and Political Rights stipulated that the death penalty could be imposed for the most serious crimes. All countries, in view of their legal systems, their level of economic development and their histories and cultures, had a right to determine the sentences to be imposed and the validity of a moratorium on the use of the death penalty. Chinese legislation provided for the death penalty only for the most serious crimes and had established a number of safeguards. The death penalty did not apply to minors and the Supreme Court made the final decision as to whether it should or should not be applied

86. **Ms. AlShahail** (Saudi Arabia), speaking also on behalf of Kuwait and Qatar, said that States were free to use the death penalty and that the current debate constituted interference in their internal affairs and was contrary to the Charter of the United Nations. Her delegation had therefore voted against the draft resolution.

87. **Ms. Mndebele** (Swaziland) said that she had voted against the draft resolution because her country believed that it violated the inalienable right of every sovereign State to have the political, economic, social, legal and cultural system of its choice, without any interference from another State. The Constitution of the Kingdom of Swaziland clearly established that no one could be intentionally deprived of his or her right to life, except in execution of the sentence of a court in respect of a criminal offence under the law of which that person had been convicted. Swaziland therefore considered that the death penalty was a criminal justice issue. Its Constitution had been promulgated after widespread consultation of the population and all decisions regarding the death penalty should reflect the will of the people.

88. **Mr. Babadoudou** (Benin) said that his country was one of those that had worked over the past 20 years towards the abolition of the death penalty or for a moratorium on its use. Benin had implemented a de facto moratorium, which had led it to vote as it had, while bearing in mind the principles of the Charter of the United Nations and of international law.

89. The question of the death penalty should be considered at the regional and subregional levels in order to take into account transnational crime. Some of the proposed amendments would have helped to balance the text of the draft resolution, if they had not been rejected. Unfortunately, everybody had stuck doggedly to their positions. In view of the lack of tolerance, Benin called on the sponsors of the draft resolution, and on those countries that had voted against it, to show greater open-mindedness in the future.

90. **Mr. Gaumakwe** (Botswana) said that he was once again very disappointed that the draft resolution had been adopted and that its sponsors still refused to acknowledge that a moratorium on executions or the abolition of the death penalty would not contribute to the promotion or protection of human rights. He was also disappointed by the rejection of the amendments

which had been submitted in an attempt to balance the text and to reduce its hostile character.

91. Botswana would continue to vote against the draft resolution for as long as its sponsors failed to take account of the fact that, for many countries, the death penalty was a criminal justice issue and its use for the most serious crimes was the sovereign right of States. Those countries that continued to misuse the General Assembly in order to impose their values on other nations should desist from such actions.

92. Botswana was proud of its record of over four decades of uninterrupted democracy, good governance and respect for the rule of law and the fundamental rights and freedoms of individuals, as guaranteed by the Constitution.

93. It respected the decision of countries that had decided to introduce a moratorium on executions but was troubled that they were less inclined to respect the choice of those who were in favour of maintaining a legal system that included capital punishment for the perpetrators of serious crimes. Unlike extrajudicial executions and the systematic massacre of civilians in various areas of conflict around the world, the death penalty was not prohibited by international law.

94. His delegation remained open to continued discussion of the issue on the basis of mutual respect and understanding and in accordance with international law. However, it would not accept being told what it should or should not do.

95. **Ms. K. A. Hassan** (Djibouti) said that she wished to place on record that, if her delegation had been present during the vote, it would have abstained.

96. **Ms. Šurková** (Slovakia) said that her delegation would have voted against the motion for division proposed by Singapore.

The meeting rose at 1 p.m.